

UNITED STATES OF AMERICA  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
FILED

JAN 27 2023

Nathan Ochsner, Clerk of Court

UNITED STATES OF AMERICA

VS.

JAMES BLYTHE

CASE NO.

4:22-CR-00146

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PARTIAL MOTION TO  
DISMISS INDICTMENT  
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The Defendant JAMES BLYTHE, files this PARTIAL MOTION TO DISMISS INDICTMENT, and would show the Court the following:

I. Defendant, James Blythe, is charged by indictment filed on March 23, 2022, with Count 1: Attempted Bank Robbery, Count 2: Bank Robbery, and Count 3: Brandishing a Firearm in Relation to a Crime of Violence.

II. On June 21, 2022, the Supreme Court decided, (US v. Taylor, No. 20-1459, 596 US, June 21, 2022). In Taylor, the Supreme Court held that an attempted Hobbs Act robbery does not qualify as a "crime of violence" under 18 USC 924(c)(3)(A), because no element of the offense requires proof that the defendant used, attempted to use, or threatened to use force. The Taylor Court determined that the categorical approach applied to determine whether a Federal felony may serve as a predicate to conviction and sentence during the elements clause. The Court then identified the elements of proof required for attempted Hobbs Act robbery are, 1) the defendant intended to unlawfully take or obtain personal property by means of actual or threatened force, and (2) he completed a "substantial step" toward the end. Case # 4:22-CR-00146 Document Filed on March 23, 2022 in TXSD, citing US v. Resendiz-Ponce, 549 US 102, 107. Reasoning that neither of these elements require the actual use, attempted use, or threatened use of force, attempted Hobbs Act robbery does not satisfy the 'elements clause' definition of "crime of violence." ("Simply put, no element of attempted Hobbs Act robbery requires proof that the defendant used, attempted to use, or threatened to use force.")

Count 3 of the indictment in this case charges, James Blythe with violation of 18 USC 2113(a), which all fall under violation 18 USC 924(c)(1)(A)(ii), Brandishing a Firearm in Relation to a Crime of Violence, on or about January 21, 2022.

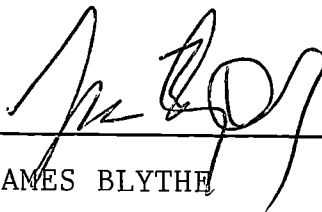
Count 1 of the indictment charges, James Blythe, with attempted Hobbs Act robbery, also on or about January 21, 2022. Discovery received in the case indicates that Counts 1, 2, & 3, are related to the same attempted robbery at JP Morgan Chase Bank, and Capital One Bank, located in Houston, Texas.

Under Taylor, the allegations in Count 3, is insufficient to support a violation of 18 USC 924(c)(1)(A)(ii), because the alleged underlying "crime of violence", attempted Hobbs Act robbery, does not require proof that the defendant used, attempted to use, or threatened to use force.

WHEREFORE, for the reasons set forth above, Defendant James Blythe, Respectfully requests the Court Dismiss Count 3 of the Indictment. Case # 4:22-CR-00146 Filed on January 21, 2022 in TXSD.

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Respectfully Submitted,



A handwritten signature in black ink, appearing to read 'J. Blythe', is written over a horizontal line.

JAMES BLYTHE

Hon. George C. Hanks  
Court Clerk

BOB CASEY U.S. COURTHOUSE  
P.O. Box 61010  
HOUSTON, TX 77002-2600

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Ref: U.S. V. JAMES Blythe - 4:22-CR-00146

Dear Clerk,

Please find enclosed A Partial Motion to  
dismiss indictment. Also please forward to the  
U.S. Attorney, - Asst. U.S. Attorney Jill STOTS,  
an electronic copy of said motion. I  
have sent my attorney a copy of this motion.

Respectfully,  
Jan Blythe

JAMES Blythe  
92805509  
HOUSTON ~~F.D.C.~~ Federal Detention Center  
P.O. Box 526255  
HOUSTON, TX 77052-6255

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NORTH HOUSTON TX 77058

25 JAN 2023 PM 4:11



Court Clerk TX SD  
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